

AMENDED IN ASSEMBLY JULY 13, 2009

AMENDED IN ASSEMBLY JUNE 18, 2009

AMENDED IN SENATE MAY 5, 2009

## SENATE BILL

**No. 4**

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### Introduced by Senator Oropeza

December 1, 2008

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An act to add Section 5008.9 to the Public Resources Code, relating to public resources.

#### LEGISLATIVE COUNSEL'S DIGEST

SB 4, as amended, Oropeza. Public resources: state beaches and parks: smoking ban.

(1) Existing law makes it an infraction for a person to smoke a cigarette, cigar, or other tobacco-related product within 25 feet of a playground or tot lot sandbox area.

This bill would make it an infraction for a person to smoke, as defined, a pipe, cigar, or cigarette on a state coastal beach or in a unit of the state park system, as defined. *The bill would require that the ban on smoking be in effect in units of the state park system only if the district superintendent of the state park system has posted an order in accordance with state park regulations policy that prohibits smoking in those areas, and public notice of the proposed order has been provided for at least 30 days.* The bill would establish a state-mandated local program by creating a new crime.

This bill would permit the Department of Parks and Recreation or another relevant state agency to develop and post signs at a state coastal beach or a unit of the state park system to provide notice of the smoking prohibition. The bill would require the smoking prohibition to be

enforced only after signs have been posted alerting the public of the prohibition, but would authorize warnings to be given before signs have been posted.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 5008.9 is added to the Public Resources  
2 Code, to read:

3 5008.9. (a) For purposes of this section, the following  
4 definitions apply:

5 (1) “Cigar” has the same meaning as defined in Section 104550  
6 of the Health and Safety Code.

7 (2) “Cigarette” has the same meaning as defined in Section  
8 104556 of the Health and Safety Code.

9 (3) “Smoke or smoking” means the carrying of a lighted pipe,  
10 lighted cigar, or lighted cigarette, of any kind, or the lighting of a  
11 pipe, cigar, or cigarette, of any kind, including, but not limited to,  
12 tobacco or any other weed or plant.

13 (4) “State coastal beach” means a sand area that is owned,  
14 operated, or under the jurisdiction of the state, an agency of the  
15 state, or a department of the state and that adjoins the ocean, a bay,  
16 or an estuary. “State coastal beach” does not include an adjacent  
17 parking lot.

18 (5) “Unit of the state park system” means an area specified in  
19 Section 5002. “Unit of the state park system” does not include an  
20 adjacent parking lot.

21 (b) A person shall not smoke a cigar, cigarette, or other  
22 tobacco-related product on a state coastal beach ~~or in a unit of the~~  
23 ~~state park system.~~

24 (c) *In units of the state park system, other than state coastal*  
25 *beaches, a person shall not smoke a cigar, cigarette, or other*  
26 *tobacco-related product if the district superintendent of the state*  
27 *park system has posted an order in accordance with state park*

1 *regulations policy that prohibits smoking in those areas, and public*  
2 *notice of the proposed order has been provided for at least 30*  
3 *days.*

4 ~~(e)~~

5 (d) A person who violates this section is guilty of an infraction  
6 and shall be punished by a fine of one hundred dollars (\$100).

7 ~~(d)~~

8 (e) The Department of Parks and Recreation or another relevant  
9 state agency or department may develop and post signs at a state  
10 coastal beach and a unit of the state park system to provide notice  
11 of the smoking prohibition in subdivision (b). New signs shall be  
12 posted only when existing signs are replaced by the state.

13 ~~(e)~~

14 (f) This section shall be enforced only on state coastal beaches  
15 or in a unit of the state park system once signs have been posted  
16 alerting the public to the smoking prohibition in subdivision (b),  
17 except that warnings may be given before signs have been posted.

18 SEC. 2. No reimbursement is required by this act pursuant to  
19 Section 6 of Article XIII B of the California Constitution because  
20 the only costs that may be incurred by a local agency or school  
21 district will be incurred because this act creates a new crime or  
22 infraction, eliminates a crime or infraction, or changes the penalty  
23 for a crime or infraction, within the meaning of Section 17556 of  
24 the Government Code, or changes the definition of a crime within  
25 the meaning of Section 6 of Article XIII B of the California  
26 Constitution.